



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
1650 Arch Street  
Philadelphia, Pennsylvania 19103-2029

SEP 26 2012

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

Mr. J. Larry Sorsby  
Executive Vice President  
Hovnanian Enterprises, Inc.  
110 West Front Street  
P.O. Box 500  
Red Bank, New Jersey 07701

Re: Administrative Penalty Complaint and Order for Compliance  
Docket Nos. CWA-03-2012-0190 and CWA-03-2012--0191DN

Dear Mr. Sorsby:

The U.S. Environmental Protection Agency (EPA) has determined that K. Hovnanian Homes of Maryland, LLC (Hovnanian), a subsidiary of Hovnanian Enterprises, Inc., has violated requirements of Section 301(a) of the Clean Water Act, 33 U.S.C. § 1311(a), by violating National Pollutant Discharge Elimination System (NPDES) permits issued for two Maryland sites -- Palisades and Shipley Farm.

Enclosed please find two proposed documents: an Administrative Order on Consent (AOC) and a Consent Agreement and Final Order (CAFO). The AOC proposes to require Hovnanian to take all actions necessary to comply with the NPDES permits for the Palisades and Shipley Farm sites with specific activities, such as implementing control measures that minimize pollutants in the discharge and preventing the discharge of significant amounts of sediment to surface waters or conveyance systems leading to surface waters, particularly in the Chesapeake Bay watershed.

In addition, EPA is proposing a CAFO, or penalty order, in connection with the above permit violations. Pursuant to Section 309(g)(2)(B) of the Act, 33 U.S.C. § 1319(g)(2)(B), EPA may assess an administrative penalty of up to \$16,000 per day, with a total maximum amount of \$177,500. The process of assessing an administrative penalty generally is commenced with the formal filing of a Complaint, after which the Respondent (the City) has the right to a hearing and other procedural protections pursuant to Section 309(g), 33 U.S.C. § 1319(g), and 40 C.F.R. Part 22.

In this case, EPA is hereby offering Hovnanian the opportunity to resolve its violations prior to the filing of a Complaint and at a reduced amount by entering into a consent agreement and final order. As permitted by the applicable procedural rules, 40 C.F.R. § 22.13(b), the parties may enter into a document that simultaneously commences and concludes the proceeding by the issuance of a consent agreement and final order pursuant to 22.18(b)(2) and (3). Such a document is enclosed. Hovnanian may resolve the cited violations of the Clean Water Act by signing and returning the enclosed consent agreement and final order within 60 calendar days of receiving this letter and by tendering the administrative penalty amount in accordance with the procedures described therein. Also, EPA invites representatives of Hovnanian to meet with Agency representatives within the next 60 days to discuss this matter further.

In the interest of resolving this matter expeditiously, the enclosed proposed CAFO reflects two reductions to the statutory maximum penalty amounts that are applicable to the violations: (1) The violations at the two sites have been combined into one process; and (2) The statutory penalty of \$177,500 has been reduced by 10% to \$159,750. If this matter is not resolved within the 60-day time period, EPA may proceed with the issuance of an Administrative Complaint of up to the statutory maximum amount. Should EPA determine that a unilateral penalty is warranted, it may separate the two sites into separate actions, with each action having a statutory maximum penalty of up to \$16,000 per day, with a total maximum amount of \$177,500 *per case*.

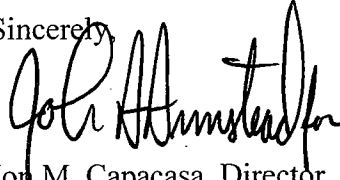
If Hovnanian has additional information relevant to this matter which it has not already provided to EPA, the Agency requests that it provide such information within 15 calendar days after receipt of this letter and show cause why an Administrative Complaint should not be issued. To facilitate settlement discussions and to supplement EPA's understanding of Hovnanian's compliance status, we request that you submit any additional documentation of any measures taken to address the violations. If the compliance measures identified are planned or are ongoing, please provide a schedule for when the compliance measures will be completed, as indicated in the Order.

For your information, EPA has today sent you under separate cover a stipulated penalty demand, pursuant to the previously-entered Consent Decree, *United States, et al. v. Hovnanian Enterprises, Inc.*, Docket No. 10-cv-1742-TJS (E.D. Pa. 2010).

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I urge you to address the contents of this letter as soon as possible. Please contact Mr. Peter Gold at 215-814-5236 if you wish to discuss this matter, or you have your counsel contact Ms. Lori G. Kier, Esq., at 215-814-2656.

Sincerely,

A handwritten signature in black ink, appearing to read "Jon M. Capacasa".

Jon M. Capacasa, Director  
Water Protection Division

Enclosures

cc: Nancy Flickinger, Esq.  
U.S. Department of Justice  
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U.S. Department of Justice  
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Maryland Department of the Environment  
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cc: (continued)  
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